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BEFORE THE STATE AUDITOR  
AND COMMISSIONER OF INSURANCE  
HELENA, MONTANA

IN THE MATTER OF: ) CASE NO. 2001-1  
)  
THE PROPOSED DISCIPLINARY ) CONSENT AGREEMENT  
TREATMENT OF American )  
National Fire Insurance )  
Company, )  
Respondent. )

TO: Joel A Glover  
Rothgerber Johnson & Lyons LLP  
One Tabor Center  
1200 17<sup>th</sup> Street, Suite 3000  
Denver, CO 80202

1.

The Montana Insurance Commissioner (Commissioner), pursuant to the authority of the Insurance Code of Montana, Section 33-1-101, et seq., Montana Code Annotated (1999) (MCA), determines that there is probable cause to believe that the following allegations, if true, justify and support disciplinary treatment.

ALLEGATIONS

1. [REDACTED] needed motor truck cargo liability insurance. The corporation approached [REDACTED] a Montana licensed insurance producer, for the insurance.
2. [REDACTED] had [REDACTED] filled out a motor truck cargo application with Bjornson/Sentinel E&L's name on the application. On or about August 8, 1999, [REDACTED] sent this application to Bjornson/Sentinel E&L, a "general agency".

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3. Bjornson/Sentinel E&L then placed coverage with American National Fire Insurance Company.

4. American National Fire Insurance Company accepted the premium and application from [REDACTED]

5. American National Fire Insurance Company issued a policy with a policy number of IMP 9539680 for the named insured [REDACTED]. The policy period for this coverage was August 19, 1999 to August 19, 2000. The policy listed the agent's name and address as "Bjornson/Sentinel E&L, P.O. Box 2027, Fargo, ND 58108."

6. Erickson-Larsen, Inc. had a producer qualification agreement with [REDACTED] during this time period.

7. On March 10, 2000, [REDACTED] sent a fax to Bjornson/Sentinel E&L informing them that [REDACTED] policy needed to be changed to reflect the addition and deletion of vehicles.

8. On May 23, 2000 [REDACTED] incurred a loss and made a claim.

9. On February 23, 2001, American National Fire Insurance Company paid the claim with interest.

10. The Montana Department of Insurance has no record of American National Fire Insurance Company filing an appointment for Bjornson/Sentinel E&L or [REDACTED]

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CONCLUSIONS

American National Fire Insurance Company is in violation of section 33-17-236 Mont. Code Ann. for failing to appoint both [REDACTED] and Bjornson/Sentinal E&L.

## II.

American National Fire Insurance Company stipulates and consents to the following:

A. To pay a fine of \$7,500 for failure to appoint two entities;

B. To comply with the insurance code of Montana;

C. To waive the right to a hearing on the above-mentioned allegations and by entering into this consent American National Fire Insurance Company neither admits nor denies the substance of the allegations of the Commissioner but knowingly and with the understanding that if this matter were to have proceeded to hearing that it was likely that American National Fire Insurance Company would have been found liable for the commissioner's allegation;

D. That American National Fire Insurance Company states that it has read the foregoing Consent Agreement, that it knows and fully understands its contents and effect. American National Fire Insurance Company has been advised of: its right to be represented by legal counsel and if represented by legal counsel, acknowledges that its legal representation was satisfactory; its right to a hearing in this matter; its right to present evidence

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1 and arguments to the Commissioner; and its right to appeal from  
2 an adverse determination after hearing. It understands that by  
3 signing this Consent Agreement it waives those rights mentioned  
4 above in this paragraph D in their entirety;

5 E. American National Fire Insurance Company states that it  
6 understands that the Consent Agreement is part of the file, which  
7 is a public record. As a public record it may not be sealed.  
8 Also, it understands that the State Auditor develops press  
9 releases based on these Consent Agreements on a routine basis and  
10 sends them to the news organizations in the state of Montana; and

11 F. It is further understood that this Consent Agreement  
12 constitutes the entire agreement between the parties, there being  
13 no other promises or agreements, either express or implied.

### 14 III.

15 Pursuant to the stipulation and consent of American National  
16 Fire Insurance Company, the Commissioner, under authority of the  
17 Insurance Code of Montana and Section 2-4-603, MCA, hereby agrees  
18 that if the terms and conditions of this Consent Agreement are  
19 fully met, he will not initiate any civil or administrative  
20 action against American National Fire Insurance Company regarding  
21 the allegations contained therein pursuant to Sections 33-1-317  
22 and 33-17-1001, MCA. In consideration for the Commissioner not  
23 initiating any civil or administrative action, American National  
24 Fire Insurance Company fully and forever releases and discharges  
25 the Office of the State Auditor, the elected State Auditor and  
all State Auditor employees from any and all actions, claims,

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causes of action, demands, or expenses for damages or injuries,  
whether asserted or unasserted, known or unknown, foreseen or  
unforeseen, arising out of the above entitled administrative  
action.

DATED this 23 day of April, 2001.

RESPONDENT

By: Assistant Vice President  
Its: \_\_\_\_\_

Subscribed and Sworn to before me this 23 day of  
April, 2001.



BARBARA A. GROSSER Notary Public for the  
Notary Public, State of Ohio State of Ohio  
My Commission Expires June 22, 2003 Residing at Cincinnati, OH  
My commission expires 6.22.2003

The alleged violation of 33-18-201(14), MCA, is dismissed.

JOHN MORRISON  
State Auditor and  
Commissioner of Insurance

By: Kevin Phillips  
Kevin Phillips  
Staff Attorney

## NOTICE OF REGULATORY ACTIVITY (NARS)

For submission of regulatory actions reported to the NAIC.

## ENTITY INFORMATION

Entity name, address and CoCode, AA/FEIN, or SSN required.

Entity Name: GREAT AMERICAN INSURANCE COMPANY OF NEW YORK (FORMERLY Am Nat Fire Ins Co)  
Last or Firm Name First Name Middle NameNAIC Entity No.: \_\_\_\_\_ NAIC CoCode: 22136 AA/FEIN: 13-5539046Entity Type Code (circle one): FRM (Firm) IND (Individual) Entity Function Code (listed on back): UDI DOB: 1 / 1 / MM DD YYYSSN: \_\_\_\_\_ Address: P.O. Box 2595City: CINCINNATI State: OH Zip: 45201 Phone: (513) 723-2815

## ACTION INFORMATION

## ORIGIN OF ACTION

Check at least one item in the section below.

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> (1005) Complaint Investigation             | <input type="checkbox"/> (1020) Insurer Report      | <input type="checkbox"/> (1045) Combined Exam            |
| <input type="checkbox"/> (1007) Field Investigation                            | <input type="checkbox"/> (1023) Statutory Filing    | <input type="checkbox"/> (1050) Bankruptcy Notices       |
| <input type="checkbox"/> (1008) Public Inquiry                                 | <input type="checkbox"/> (1025) Legal               | <input type="checkbox"/> (1055) Third Party Information  |
| <input type="checkbox"/> (1010) Routine Dept. Action                           | <input type="checkbox"/> (1030) Market Conduct Exam | <input type="checkbox"/> (1060) Licensing Administration |
| <input type="checkbox"/> (1015) Other States Action                            | <input type="checkbox"/> (1035) Financial Exam      | <input type="checkbox"/> (1063) Background Check         |
| <input type="checkbox"/> (1018) Information/Referral from Another State Agency | <input type="checkbox"/> (1040) Workers Comp Exam   | <input type="checkbox"/> (1065) Other _____              |

## REASON FOR ACTION

Check at least one item in the section below.

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> (2005) Underwriting                                      | <input type="checkbox"/> (2038) Failure to Comply with Previous Order                         | <input type="checkbox"/> (2065) Notice of Financial Impairment from another state |
| <input type="checkbox"/> (2010) Marketing & Sales                                 | <input type="checkbox"/> (2039) Failure to Maintain Books & Records                           | <input type="checkbox"/> (2070) Financial Impairment                              |
| <input type="checkbox"/> (2012) Life Insurance Replacement Violation              | <input type="checkbox"/> (2040) Failure to Timely File  | <input type="checkbox"/> (2072) Cure of Financial Impairment                      |
| <input type="checkbox"/> (2014) Misrepresentation of Insurance Product/Policy     | <input type="checkbox"/> (2042) Failure to Pay Child Support                                  | <input type="checkbox"/> (2074) Other States Action                               |
| <input type="checkbox"/> (2015) Claim Handling                                    | <input type="checkbox"/> (2045) Rebating  | <input type="checkbox"/> (2075) Failure to report other state action              |
| <input type="checkbox"/> (2020) Policyholder Service                              | <input type="checkbox"/> (2050) Rate Violation  | <input type="checkbox"/> (2080) Dissolution                                       |
| <input type="checkbox"/> (2025) Advertising                                       | <input type="checkbox"/> (2053) Use of Unapproved Forms                                       | <input type="checkbox"/> (2085) Failure to pay tax                                |
| <input type="checkbox"/> (2026) Premium Finance Act Violation                     | <input type="checkbox"/> (2055) No License  | <input type="checkbox"/> (2090) Failure to pay fine                               |
| <input type="checkbox"/> (2027) Surplus Lines Violation                           | <input type="checkbox"/> (2056) Demonstrated Lack of Fitness or Trustworthiness               | <input type="checkbox"/> (2095) Failure to pay assessment                         |
| <input type="checkbox"/> (2028) TPA Violation                                     | <input type="checkbox"/> (2058) Misstatement on application                                   | <input type="checkbox"/> (2097) Bail Bond Forfeiture Judgement                    |
| <input type="checkbox"/> (2029) Unfair Insurance Practices Act Violation          | <input type="checkbox"/> (2059) Failure to Make Required Disclosure on License App            | <input type="checkbox"/> (2100) No Certificate of Authority                       |
| <input type="checkbox"/> (2030) Failure to meet Continuing Education Requirements | <input type="checkbox"/> (2060) Not Appointed   | <input type="checkbox"/> (2101) Certification Violation                           |
| <input type="checkbox"/> (2032) Continuing Education Requirements Met             | <input type="checkbox"/> (2061) Selling for Unlicensed Insurer                                | <input type="checkbox"/> (2102) Unauthorized Insurance Business                   |
| <input type="checkbox"/> (2035) Failure to Respond                                | <input checked="" type="checkbox"/> (2062) Allowed Business from Agent Not Appointed/Licensed | <input type="checkbox"/> (2103) Fiduciary Violation                               |
| <input type="checkbox"/> (2036) Late or Incomplete Response                       | <input type="checkbox"/> (2063) Employed Unlicensed Individuals                               | <input type="checkbox"/> (2104) Failure to Remit Premiums to Insurer              |
| <input type="checkbox"/> (2037) Failure to Notify Department of Address Change    | <input type="checkbox"/> (2064) Paid Commissions to Unappointed Agents                        | <input type="checkbox"/> (2105) Misappropriation of premium                       |
|   |   | <input type="checkbox"/> (2106) Forgery   |
|   |   | <input type="checkbox"/> (2107) Criminal Record/History                           |
|   |   | <input type="checkbox"/> (2108) Criminal Proceedings                              |
|   |   | <input type="checkbox"/> (2110) Reconsideration                                   |
|   |   | <input type="checkbox"/> (2115) Other <u>Consolidation</u>                        |

# 33-17-236

Continue form on reverse side



### DISPOSITION

Check at least one item in the section below.

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> (3001) License, Denied<br><input type="checkbox"/> (3003) License, Suspended<br><input type="checkbox"/> (3004) License, Cancelled<br><input type="checkbox"/> (3006) License, Revoked<br><input type="checkbox"/> (3009) License, Probation<br><input type="checkbox"/> (3010) License, Conditional<br><input type="checkbox"/> (3011) License, Supervision<br><input type="checkbox"/> (3012) License, Reinstatement<br><input type="checkbox"/> (3013) License, Granted<br><input type="checkbox"/> (3014) License, Surrendered<br><input type="checkbox"/> (3015) License, Voluntarily Surrendered<br><input type="checkbox"/> (3016) License, Other _____<br><br><input type="checkbox"/> (3021) Certificate of Authority, Denied<br><input type="checkbox"/> (3023) Certificate of Authority, Suspended<br><input type="checkbox"/> (3025) Certificate of Authority, Suspension Extended | <input type="checkbox"/> (3026) Certificate of Authority, Revoked<br><input type="checkbox"/> (3028) Certificate of Authority, Expired<br><input type="checkbox"/> (3029) Certificate of Authority, Probation<br><input type="checkbox"/> (3034) Certificate of Authority, Surrendered<br><input type="checkbox"/> (3036) Certificate of Authority, Other _____<br><br><input type="checkbox"/> (3042) Cease and Desist from Violations<br><input type="checkbox"/> (3043) Cease and Desist from all Insurance Activity<br><input checked="" type="checkbox"/> (3045) Consent Order<br><input type="checkbox"/> (3046) Stipulated Agreement/Order<br><input type="checkbox"/> (3047) Previous Order Vacated<br><input type="checkbox"/> (3048) Ordered to provide requested information<br><input type="checkbox"/> (3050) Temporary Restraining Order<br><input type="checkbox"/> (3055) Reprimand<br><input checked="" type="checkbox"/> (3060) Hearing Waiver | <input type="checkbox"/> (3065) Show Cause<br><input type="checkbox"/> (3070) Re-exam<br><input type="checkbox"/> (3075) Rescission of<br><input type="checkbox"/> (3076) Involuntary Forfeiture<br><input type="checkbox"/> (3078) Restitution<br><input type="checkbox"/> (3079) Suspended from writing new business; renewals ok<br><input type="checkbox"/> (3080) Supervision<br><input type="checkbox"/> (3085) Rehabilitation<br><input type="checkbox"/> (3090) Liquidation<br><input type="checkbox"/> (3095) Conservatorship<br><input type="checkbox"/> (3100) Receivership<br><input type="checkbox"/> (3101) Ancillary Receivership<br><input checked="" type="checkbox"/> (3102) Monetary Penalty<br><input type="checkbox"/> (3103) Aggregate Monetary Penalty<br><input type="checkbox"/> (3104) Settlement<br><input type="checkbox"/> (3105) Other _____ |
|---|--|--|

Complete as needed.

Time or Length of Order (In days, or P = Permanent, or I = Indefinite) \_\_\_\_\_

Complete as needed.

Penalty/Fine/Forfeiture \$ 7,500

Required, please complete.

Action Date 4/23/01

Required, please complete.

Effective Date 4/23/01

Complete as needed.

File Reference # 2001-1

### CONTACT INFORMATION

Required, please complete.

Action State: MT Contact Name: Last PHILLIPS First KEVIN MI F  
 Phone: ( 406 ) 444 - 2040

Mail completed form to: NAIC, RIRS, 120 W. 12th Street, Kansas City, MO 64105-1925 or  
 Fax completed form to: NAIC - RIRS, 816 460 7510

### ENTITY FUNCTION CODES

CODE	DESCRIPTION	CODE	DESCRIPTION
ADJ	Adjuster/Appraiser	PFC	Premium Finance Company
AIR	Alien Insurer/Reinsurer	PPO	Preferred Provider Organization
CAI	Captive Insurer	PRE	President
CEO	Chief Executive Officer	PRI	Principal/Owner
COO	Chief Operating Officer	PRO	Producer (agency, brokerage, etc.)
DIT	Director/Trustee	REI	Reinsurance Intermediary
EMP	Employee	RPG	Risk Purchasing Group
HCP	Health Care Provider	RRF	Risk Retention Group
HMO	Health Maintenance Organization	SCY	Security
INC	Insurance Consultant	SEC	Secretary
JUA	Joint Underwriting Association	SEI	Self Insured
KEE	Key Employee	STF	State Funded
MET	MET/MEWA	TPA	Third Party Administrator
MGA	Managing General Agent	UDI	U.S. Domiciled Insurer
OFF	Officer	UNK	Unknown
OTH	Other	URO	Utilization Review Organization
		VIP	Vice President